

Legal Protection for Doctors in Use of Health Information Technology

Wawan Satriawan^{1*} Musakkir² Arsunan, A.A³

1.Student Master of Health Law Program, Postgraduate of Hasanuddin University, Makassar, Indonesia

2.Law Faculty, Hasanuddin University, Makassar, Indonesia

3.Public Health Faculty, Hasanuddin University Makassar, Indonesia

Abstract

The doctor's responsibility due to an error act in consultation through information technology can be seen from booth civil law and unlawful acts. The responsibility is to obtain compensation for the loss of the patient in the event of medical error or malpractice. This study proposed to find out Doctor's Responsibilities due to Health Consultation through Information Technology. The data source comes from primary legal materials with the binding position. The data collected through inventory procedures and identification of laws and regulations, as well as classification and systematization of legal materials based on the research problem. The data collection technique used in this research is a literature study. The results showed that the implementation of medical practice which is the core of various activities in the implementation of health efforts must be carried out by any doctors who have high ethical and moral, expertise and authority which must be continuously improved through continuous education and training, certification, registration, licensing, and fostering supervision, and monitoring so that the implementation of medical practice is by the development of science and technology. With the fulfillment of the element of default, the patient can hold the doctor responsible. The patient can file a lawsuit against the doctor at the District Court, where the dispute occurs because the doctor's actions are contrary to the principles of propriety, the meticulousness, and caution expected of him.

Keywords: Primary, Law, Health Consultation, Technology, Information Technology, Juridical

DOI: 10.7176/JLPG/94-22

Publication date: February 29th 2020

1. Introduction

Indonesia with the sixth largest population in the world of 266.91 (2019), as well as its 9.66% destitute Community (2018) has brought health problems as the main problem to be solved. Another problem occurs in this country was Indonesia's geographical condition in the form of islands (17,000 islands). While the doctor's ratio is 1 per 5,000 population. Moreover, most of the expert doctors prefer to be in big urban centers, especially the provincial capital.

Regard with health services known as the health care providers (Doctor) and those who receive health services (Patients). In the relationship of the doctor's health services as a service provider, providing health care services to patients that aim to make or improve patient health. Such links are also referred to as service relations in the health sector.

A doctor as the health care services provider, providing health care services to make or improve the patients' health. Such links are also referred to as service relations in the health sector. Furthermore, the relationship between the doctor and the patient comes from a trust which is known as a therapeutic agreement. In juridical terms, therapeutic agreements are defined as the legal relationship between doctor and patient in a professional medical service based on competencies of specific expertise and skills in the health field.

Doctor while performing health services must meet five professional standards; accuracy/precision, medical standards, average ability, action goal and proportional action. These elements are so crucial to assess whether the doctor makes some irregularities or not. However health crisis in rural and border areas in Indonesia currently needs an effective and efficient solution. The strategy adopted is an unusual model of health care service between doctors and patients not meeting directly but instead is linked to information and communication technology.

The technology advances have resulted in new types of services in the health sector, one of which is the existence of Telemedicine. Telemedicine is a health service between doctors and long-distance patients on transmit patient medical data using audio-visual communication using existing telecommunications infrastructures such as using the internet and satellite.

In the 21st Century, the world faced the emergence of new technologies in the field of medicine that enables doctors to practice in a virtual space. This innovative technological revolution is known as Telemedicine. Related with Telemedicine, now medical services can be provided via telecommunications, audio, visual and data that is connecting health care facilities even though geographically separated so that the time, place and distance differences are no longer become an obstacle in the therapeutic relationship between doctors and patients. In the coming millennium era, health care is expected to develop rapidly as well as in Indonesia.

Telemedicine is the use of electronic information and communication technology to provide and support

health care when distance separates patients and doctors to send patient's medical data using audio-visual communication and existing telecommunications infrastructure, namely the internet and satellite. One part of Telemedicine is the presence of an online clinic, where patients and doctors can consult via the internet about the problems suffered by patients and even doctors can diagnose the patient's condition without having to meet in person and without checking it. Also, patients can buy drugs directly from the online clinic, both from the doctor's advice or to buy market medicines.

Telemedicine is a medical practice from a distance where actions, diagnostic and treatment decisions, and recommendations are based on data, documents and other information transmitted through the telecommunications system. One part of Telemedicine is an online clinic, where patients and doctors can consult via the internet about the problems suffered by patients and even doctors can diagnose the patient's condition without having to meet in person and without checking or feeling it, besides that patients can also buy drug directly from the online clinic with the advice of a doctor who diagnoses the patient concerned, and delivery of the drug was carried out via express delivery services. One example of this online clinic is the online doctor's clinic, which provides health services by utilizing technology and information or in other words, this doctor's clinic makes transactions electronically because of doing deeds.

The existence of this online clinic is motivated by the spread of clinic patients in various regions, to be able to provide solutions to health services that are limited in geographical scope and time. It is expected to be able to introduce services and physical facilities to a broader scope of society through internet media. On the other hand, this service facilitates the process of providing services and health efforts carried out by doctors and patients with no distance restrictions, but the online clinic in which there is a practice of medicine. If you see the standard of medical practice carried out in regular clinics, of course, this will not cause a problem, because of the clarity in terms of its regulation. However, the practice of medicine carried out in online clinics will undoubtedly cause a separate problem, because the process of diagnosing online by doctors is done with not face to face with the patient, so there is a strong possibility of misdiagnosis of the patient. The diagnosis itself is identifying the characteristics of a disease or condition or differentiating one disease or condition from another, because of the large percentage of errors diagnosed by doctors to patients in online clinics, this is one of the challenges that must be faced.

Besides the benefits derived from the use of Telemedicine, it is also important to realize that the use of Telemedicine also has the potential to cause various laws. Some of these legal issues include licensing, accreditation, privacy and confidentiality of electronic patient medical records, accountability in case of malpractice, clinical guidelines, and insurance.

Empirical reality and implications of legal issues regarding Telemedicine in Indonesia require national legal rules. Allowing change and development without being accompanied by adjustments to the rule of law is tantamount to allowing such changes and developments in situations of uncertainty and disorder. For this reason, it is time for Indonesia to have national provisions on Telemedicine so that it can provide legal certainty for health practitioners and patients who use Telemedicine. Along with the times, science and technology are also increasingly developing. Likewise, technology in the field of medicine, one of which is Telemedicine.

2. Methods

2.1. Method of Research

Normative law research is the use of normative case studies in the form of legal behavior products, such as studying the law. The subject of the study is the law which is conceptualized as a norm or rule that applies in society and serves as a reference for everyone's behavior. So that normative legal research focuses on an inventory of positive law, principles and doctrines of law, legal discovery cases in concreto, systematic law, synchronization levels, comparative law and legal history. Based on the explanation above, the author decides to use the normative legal research method to search and write a discussion of this thesis as a legal research method. The suitability of the theory motivates the use of normative research methods in the research and writing of this thesis with the research methods needed.

2.2. Method of Approach

In legal research, there are several approaches, with the approach the researcher will get information from various aspects of the issue to find the answer. The approach method in this research is the approach of legislation (statute approach). Normative research certainly must use a legislative approach, because what will be examined are various legal rules which are the focus as well as the central theme of a study.

2.3. Data Collection

Legal materials are collected through an inventory procedure and identification of laws and regulations, as well as classification and systematization of legal materials following the research problem. Therefore, the data collection technique used in this research is a literature study. A literature study is carried out by reading, studying, and recording making reviews of library materials related to the Use of Information Technology in the World of Health.

3. Data Analysis

The collected legal materials then subjected to discussion, examination and classification into certain parts to be processed into information data. The results of the legal material will be interpreted through; systematic interpretation, grammatical interpretation and teleological interpretation. Systematic interpretation conducted to interpret other legal texts, this interpretation, looking for provisions contained therein is interconnected as well as the relationship determines the following meaning.

Grammatical interpretation is a method of interpreting the law on the meaning of the text which is stated in the rules of law. Interpretation in this way starts from the meaning according to the use of everyday language or technical-juridical eating, which is shared or considered to be standard. Grammatical interpretation in this study is related to the meaning of the text, teleological interpretation (what does the articles would like to achieve) which is the method of interpretation that is focused on decomposition or formulation of legal norms according to its purpose and scope. Such an interpretation also takes into account the actual context of social reality.

The teleological interpretation has the focus of attention that the facts in legal norms contain the aim to protect specific interests so that when the provisions are applied these intentions must be fulfilled, this interpretation then takes into account the actual social context.

4. Finding and Discussion

4.1. Regulations in the use of health information technology.

By 2000 the development of Information and Communication Technology (ICT) rapidly growth which is also driving social change in many countries throughout the world, including Indonesia. Some significant changes occurred, including digital commercialization. Today's digital commercialization brings up technology that makes it easy for people to do things. Everything is more accessible by using technology as a result of digital commercialization. For example, if someone wants to do business such as food and clothing, but does not have a place of business, they can join the online store website that is managed by a digital startup company both domestically and abroad.

Such the previous above statement on online health consultancy services through information technology (IT) both based on websites and applications. Article 1 paragraph 1 of the Minister of Health Regulation No. 20 of 2019 on the Implementation of Telemedicine Services Between Health Service Facilities explains that:

Telemedicine is the provision of long-distance health services by health professionals using information and communication technology, including the exchange of information on diagnosis, treatment, prevention of illness and injury, research and evaluation, and continuing education of health service providers for the benefit of improving individual and community health.

Telemedicine service based on Regulation No. 20 of 2019 should be performed by professional health workers who have a practice licence at the health service facility (fasyankes). 1. The organizers Fasyankes include consultation giver and the requestor consultation. Consultation providers' facilities are those who provide telemedicine consulting services either private or government hospitals. 2. Meanwhile, consultation request fasankes are fasankes that send telemedicine consultation requests, in the form of hospitals, first-level health facilities, and other health facilities. Whereas, online health consultations can be categorized as clinical teleconsultation is a long-distance clinical consultation service to help diagnose, and/or provide management recommendations/recommendations.

Telemedicine is equally could provide health efforts through the use of information and communication technology. the presence of the phenomenon of online-based medical services in the community besides providing convenience in terms of consumers for their use because it can cut the distance and provide time efficiency, it is also important to realize that the use of online-based medical services has the potential to cause legal problems. Some legal issues include licensing, patient privacy rights and confidentiality of the patient's electronic medical records, clinical guidelines and procedures, and accountability in the event of a loss experienced by the patient. Given that online-based medical service applications are mostly established by people who are not from medical professionals, it is also questionable who has the right to supervise them. Furthermore, regarding the practice license of doctors in online medical services that use registration certificates issued by the medical council, the registration certificate, hereinafter abbreviated as STR. STR is the legal evidence provided by the Indonesian Medical Council to registered doctors and dentists.

Meanwhile, the practice license hereinafter abbreviated as SIP. SIP is the legal evidence provided by the District/City Health Service to doctors and dentists who will carry out medical practice after fulfilling the requirements.

In addition, the implementation of online-based medical services indicates a violation of the right to patient privacy which, according to the author, is potentially a legal problem because in its implementation, several online medical service applications display patient consultation history information so that it is easily accessed by parties no interest. For this reason, both service security and reliability that organizes electronic systems must be ensured in Article 15 paragraph (1) of Law No. 11 of 2008 concerning Information and Electronic Transactions regulating

that:

Every Electronic System Operator must operate an electronic system reliably and safely and be responsible for the operation of the electronic system as it should be"

Based on the above provisions, it is necessary for online-based medical services to be run safely and reliably. in addition, Medical professional ethic states that every doctor must keep everything he knows about a patient, even after the patient has died. Other rules relating to patient confidentiality are also stated in Article 57 Paragraph (1) of Law Number 36 Concerning Health which stipulates that:

Everyone has the right to confidential personal health conditions that have been revealed to the health service provider. Furthermore, Article 1320 of the Civil Code states that for an agreement to be valid, four conditions must be fulfilled, namely: 1. the agreement of those who bind themselves; 2. the ability to make an engagement; 3. a certain subject matter; 4. a reason that is not forbidden. Whereas the Therapeutic Agreement, according to Triwibowo in his book Ethics and Health Law is an agreement made between doctors and health workers with patients, in the form of legal relations that give birth to rights and obligations for both parties.

Therapeutic Agreement is where the aim of the healing effort is the maintenance and improvement of health-oriented to the principle of kinship, including activities to improve health quality (promotive), prevention of disease (preventive), cure of disease (curative), and recovery of health (rehabilitative).

Furthermore, regarding the patient's privacy rights that can be accessed by unauthorized parties, this is because online medical services provide or display information to the general public without the patient's consent. It is important to know that some doctors know and some do not know that giving information to others without the patient's consent is unlawful, even to the patient's family, but still, a doctor must first seek the consent of the patient. As for the losses incurred caused by doctors who show the patient's secrets, the basic claims that can be done are acts against the law.

Referring to the explanation above, there are also a number of things that are reasons for doctors to disclose patient secrets. This is regulated in Article 48 of Law No. 29 of 2004 concerning Medical Practices and Article 10 of the Minister of Health Regulation No.269/MENKES/PER/III/2008 on Medical Records, each of which regulates thus:

Article 48 Paragraph (1) No. 29 of 2004 on Medical Practices Every doctor or dentist in carrying out medical practice must keep medical secrets. Paragraph (2) Medical secrets may be opened only for the benefit of the patient's health, fulfilling the request of law enforcement officials in the context of law enforcement, the patient's own request, or based on statutory provisions. Paragraph (3) Further provisions regarding medical secrets are regulated by Ministerial Regulation.

From the discussion above, it can be concluded that so far there are no specific rules governing online-based medical services either by the central government or local governments so that the presence of online-based medical services is not necessarily equivalent to ordinary medical services. In addition, the Indonesian Doctors Association must also play an active and responsive role in ethical issues that can arise from the use of online-based medical services as a form of accountability for patients, colleagues, and themselves.

As a country that places the highest-ranking law based on the Pancasila and the 1945 Constitution, Indonesia should have national provisions regarding online-based medical services so as to provide legal certainty for both health practitioners and patients who use online-based medical services while protecting parties for legal certainty because they allow changes and developments without any adjustments to the rule of law is the same as allowing changes and developments in situations of uncertainty and disorder.

4.2. Doctor's Responsibility in the use of Health Information Technology

Technology Advances have made doctor consultations change, from conventional ones to online consultations. Below the authors explain the difference between the use of information technology in the form of online consultations with regular consultations as follows:

Table 1. Conventional Differences and Online Consultation

Conventional	Online Consultation
Patients must come to the clinic or hospital	Patients do not need to come to clinic or hospital, they can use a gadget that can be done anywhere.
Patients must register and queue	Patients do not need to register
patients must pay after consultation	Patients do not need to pay (free), except for certain doctors who require users to transfer some money in order to conduct consultations.
Patients are examined manually using medical devices (stethoscope and so on)	Patients were not examined using medical devices

Based on the above table, If the patient only wants, inquires about general health, online consultation is the best choice. Meanwhile, if the patient is in an urgent situation to do specific actions immediately, then it is clear that he must come to the nearest clinic or hospital or where the patient is seeking treatment.

As a profession bearer, doctors should provide medical services to patients both conventionally and online. Dealing with the doctor's order means that the doctor accepts the responsibility if something goes wrong. The responsibilities of the doctor's profession can be divided into ethical and legal responsibilities. In legal responsibilities can also be divided into administrative responsibility, criminal liability and civil liability.

Technological advances have made doctor consultations change, from conventional ones to online or online consultations. If patients only want to, ask about general health, online consultation is the best choice. Meanwhile, if the patient is in an urgent situation to do specific actions immediately, then it is clear that he must come to the nearest clinic or hospital or where the patient is seeking treatment.

The implementation of medical practice which is the core of various activities in the implementation of health efforts must be carried out by doctors and dentists who have high ethics and morals, expertise and authority which must be continuously improved through continuous education and training, certification, registration, licensing, and fostering supervision, and monitoring so that the implementation of medical practice is following the development of science and technology.

The Information and Electronic Transaction Law is a provision that applies to every person who commits legal acts as regulated in Law Number 11 Year 2008 Regarding Electronic Information and Transactions, both within the jurisdiction of Indonesia and outside the jurisdiction of Indonesia, which has legal consequences in the jurisdiction of Indonesia and outside the jurisdiction of Indonesia and detrimental to the interests of Indonesia.

As a matter of fact, the Information and Electronic Transaction Law (UUITE) is divided into two major parts, namely the regulation of information and electronic transactions and the regulation of prohibited conduct. Regulations regarding information and electronic transactions refer to several international instruments, such as the UNCITRAL Model Law on e-Commerce and the UNCITRAL Model Law on e Signature. This section is intended to accommodate the needs of business people on the internet and the general public in order to obtain legal certainty in conducting electronic transactions. Some of the materials that are regulated include 1. recognition of information / electronic documents as legal evidence (Article 5 & 6); 2. electronic signatures (Article 11 & 12); 3. electronic certification (Article 13 & 14); and 4. implementation of an electronic system (Article 15 & 16).

Furthermore, Law No. 11 of 2008 on Electronic Information and Transactions 15 (1) stated that every electronic system provider must conduct an electronic system reliably and safely and be responsible for the proper operation of the electronic system.

From the review and analysis conducted, the author revealed that the doctor's responsibility in the event of an error in health consultation through information technology could be seen from a civil law perspective consisting of responsibilities due to default and responsibility constitutes an act against the law. The responsibility is to obtain compensation for the loss of the patient in the event of medical error or malpractice. With the fulfillment of the element of default, the patient can be held responsible for the doctor he suffers. The patient can file a lawsuit against the doctor at the District Court, where the dispute occurs. Because the doctor's actions are contrary to the principles of propriety, the meticulousness and caution expected of him. It is also emphasized in the Law of the Republic of Indonesia No. 29 of 2004 article 1 on Medical Practices, which states that:

Medical practice is a series of activities carried out by doctors and dentists on patients in carrying out health efforts; Doctors and dentists are doctors, dentists, and medical specialists graduated from medical or medical education both domestically and abroad that is recognized by the Government of the Republic of Indonesia by the laws and regulations. The Indonesian Medical Council is an autonomous, independent, non-medical body structural and dentistry council. Competency Certificate is a letter of acknowledgment of the ability of a doctor or

dentist to carry out medical practice throughout Indonesia after passing the competency test. Registration is the official recording of doctors and dentists who already have competency certificates and have specific other qualifications and are legally recognized to carry out professional actions. Registration is a re-registration of doctors and dentists who have registered after fulfilling the applicable requirements. A practice license is written evidence given by the government to doctors and dentists who practice medicine after fulfilling the requirements. A registration certificate is a legal evidence provided by the Indonesian Medical Council to doctors and dentists who have registered. The Bachelor of Health Service is a place for organizing health services that can be used for a medical or dental practice.

The legal review of the ITE Law is based on the results of the analysis of the author also explains that each electronic system provider must conduct an electronic system reliably and safely and be responsible for the operation of the electronic system as it should. The sound of the Article can be seen in Law No.11 of 2008 on ITE 15 (1). Thus the Laws and Regulations regarding the responsibility of doctors are fundamental as a preventive measure caused by errors caused by doctors in carrying out their profession.

Limitations in online consultations according to researchers based on several observations and literature reviews are doctors who provide health consultations through electronic media (online consultation) are not permitted to prescribe drugs. A doctor can only prescribe drugs prescribed by a doctor after examining a patient directly. However, doctors who provide online health consultation services are still allowed to provide free drug recommendations that are by the symptoms or complaints of patients; in other words, doctors cannot establish a definitive diagnosis. It is necessary because some people may expect to get a definitive diagnosis directly from complaints experienced when consulting online. Doctors are not allowed to do it only through online conversations or electronic media. To establish a definitive diagnosis, a doctor must follow procedures as regulated in the Medical Practice Act and Permenkes No. 2052 of 2011.

4.3. Legal Protection for Doctors toward the Development of using Health Information Technology

Law is one of the means to regulate, discipline and solve various problems during society in addition to social facilities and institutions. View the legal function of three main things, namely: function to maintain the security of the community function to implement (implement) order of legislation and function to resolve disputes. Therefore the functioning of the law depends a lot and is influenced by other socio-cultural systems, namely economic, social, cultural, habits, knowledge and education, religion, environment, politics, and so on.

In the process of fulfilling health services by patients or their families from the medical parties (doctors and nurses) who are in the Hospital, it is not uncommon for patients to find things that are less pleasant or satisfying due to improper treatment by doctors or paramedics available. Moreover, communication between the patient or his family with the Hospital, especially the doctor or the medical such as nurses, which in practice is still lacking attention, even not well established. Judging from the oath of office or profession, not a few violations of the code of ethics have occurred.

Aside from its obligations, health workers such as doctors and nurses have the right to obtain legal protection in carrying out their duties by their profession, and this is regulated in Article 5 paragraph (1) of Law No. 36 of 2015. Furthermore, what is equally important is the content of Article 55 of Law. No. 23 of 1992 which explains that: "everyone has the right to compensation due to mistakes or negligence committed by health workers".

Whereas according to the author, legal protection for doctors in carrying out health consultations through Information Technology, is very appropriate to be protected with this matter can be seen in Article 53 paragraph (1) of the law. No. 23 of 1992, formulates: "Health workers are entitled to legal protection in carrying out their duties following their profession". In other words, the need for legal protection for the medical profession and other medical professionals so that in carrying out their duties and profession they feel comfortable and are not haunted by legal sanctions and the existence of legal certainty in carrying out Information Technology-Based Health Consultation. Because without fair and balanced regulation in order to carry out the noble task, it is feared that fear will emerge from the doctors to take actions that are very important in human life.

In line with the results of the author's analysis above, the Legal Basis for Doctor Protection can be seen from the two (2) points below:

a. Law No. 44 of 2009 on Health.

Article 27 states: "Health workers are entitled to receive compensation and legal protection in carrying out their duties following their profession.

Article 29 states: "In the case of health workers who commit negligence in carrying out their profession, such negligence must be completed first through mediation "

b. Article 55 Paragraph 1 Law No.29 of 2004 on Medical Practices states: "To uphold the discipline of doctors and dentists in the administration of medical practice, an Indonesian Medical Disciplinary Honorary Board was formed".

Thus, the author understands that the articles mentioned above as one of the proofs that the importance of legal protection for the medical profession in carrying out his profession as a health worker, therefore professional

justice is a determinant of whether there are mistakes made by health professionals, once again not to the general court as a determinant of mistakes made by health professionals in conducting Information Technology-based Health Consultation (IT). The author further believes that legal protection here is significant because of negligence or mistakes that can cause death or permanent disability. To do so, the government has regulated matters of legal protection for patients as well as the protection of health workers. However, it seems that at the level of implementation there are still many who do not understand the law, procedural errors evidence this alternatively, other negligence resulting in death or the form of a lifetime disability suffered by the patient.

Legal standing, It provides legal protection for the doctors in carrying out the medical profession legal provisions that protect doctors in the event of suspected malpractice are contained in article 50 of the medical practice act, article 24 paragraph (1), article 27 paragraph (1) and article 29 on health, and article 24 paragraph (1) on Health Workers.

The are two points should be done by the doctor to Avoid Lawsuits

a. Informed Consent

In carrying out his profession, Informed Consent is an obligation that must be fulfilled by a doctor. Informed Consent consists of two words, namely "informed" which contains the meaning of explanation or information (information), and the word "consent" which means approval or giving permission. Thus the Informed Consent contains the meaning of an agreement given by the patient or family after information about the corrective action to be taken against him and all the risks.

b. Medical Records

In addition to the Informed Consent, doctors are also required to make a "Medical Record" in every health care activity for their patients. The regulation of medical records is contained in Article 46 paragraph (1) of the Medical Practice Law. The medical record is a file that contains records and documents about the patient's identity, examination, treatment, actions and services provided to patients. Medical records are made with various benefits, namely for the treatment of patients, improving the quality of services, education and research, financing, health statistics and proving legal, disciplinary and ethical issues.

According to the author, legal protection for doctors in carrying out health consultations through Information Technology is very appropriate to be protected with this matter can be seen in Article 53 paragraph (1) of the Act. No. 23 of 1992, formulates: "Health workers are entitled to legal protection in carrying out their duties following their profession". In other words, the need for legal protection for the medical profession and other medical professionals so that in carrying out their duties and profession they feel comfortable and are not haunted by legal sanctions and the existence of legal certainty in carrying out Information Technology-Based Health Consultation.

5. Conclusion

There is no specific regulation on the development in use of health consultation through information technology, but this can be related to the provisions of Article 1 No. 1 of the Minister of Health Regulation No. 20 of 2019 on the Implementation of Telemedicine Services Between Health Service Facilities: *"Telemedicine is the provision of long-distance health services by professionals health through information and communication technology, information exchange on diagnosis, treatment, prevention of diseases and injuries, research and evaluation, and continuing education of health service providers for the benefit of improving the health of individuals and the community."* In addition, it is also related to the provisions of Article 15 paragraph (1) of Law No.11 of 2008 on Electronic Information and Transactions that: *"Each Electronic System Operator must operate an electronic system reliably and safely and be responsible for the proper operation of the electronic system."*

The doctor's responsibilities in use of health information technology can be based on Article 1336, 1365 and 1367 of the Civil Code, namely "doctors are responsible for their actions or omissions, as well as the actions of people or goods under their supervision." can be prosecuted based on defaults and illegal actions based on Article 1243, 1370, 1371 of the Civil Code. Moreover, the Electronic Information and Transaction Law is a provision that applies to every person who commits legal acts as regulated in this Law Law Number 11 Year 2008 Regarding Information and Electronic Transactions, both within the jurisdiction of Indonesia and outside the territory Indonesian law, which has legal consequences in the jurisdiction of Indonesia and / or outside the jurisdiction of Indonesia and is detrimental to Indonesia's interests. Thus the Laws and Regulations regarding the accountability of doctors are fundamental as a preventive measure caused by errors caused by doctors in carrying out their profession.

The legal protection of doctors in use of Health Information Technology is based on the Legal Basis That Provides Legal Protection for Doctors in carrying out the Medical Profession Legal provisions that protect doctors in the event of suspected malpractice are contained in Article 50 of the Medical Practice Act, Article 24 Paragraph (1), Article 27 Paragraph (1) and Article 29 of the Health Act, and Article 24 Paragraph (1) of PP on Health Workers and Law No. 23 of 1992 which explicitly entitles Health Workers to have legal protection in carrying out their duties following their profession ". In other words, the need for legal protection for the medical profession and other medical professionals so that in carrying out their duties and profession they feel comfortable and are

not haunted by legal sanctions and the existence of legal certainty in carrying out Information Technology-Based Health Consultation.

References

- Adji, I. S. (2019). *Malpraktek Medik, Setandar Profesi & Pertanggung Jawaban Pidana*: Universitas Hasanuddin.
- Anwar, A. (2014). *Aspek Hukum Telemedicine*, Ambon: Universitas Pattimura
- Kansil. (1991). *Pengantar Hukum Kesehatan Indonesia*, Jakarta: Rineka Cipta.
- Djaja S. M. (2014). *Hukum Perdata Dalam Perspektif. Nuansa Aulia*, Bandung.
- Erik, T. (2006). *Implementasi Telemedicine*, Pusat Studi Informatika Kedokteran Universitas Gunadarma
- Kanter, A. A., & Sianturi, S. R. (2002). *Asas-Asas Hukum Pidana Di Indonesia dan Penerepannya*, Jakarta: Stora Grafika.
- Ameln, F. (1991). *Kapita Selekta hukum Kedokteran*, cet.1; Jakarta: Grafikatama Jaya.
- Fuad, et al., (2015). *Implementasi Aplikasi Telemedicine Berbasis Jejaring Sosial Dengan Pemanfaatan Teknologi Cloud Computing*, Jurnal Edukasi dan Penelitian Informatika (JEPIN) Vol. 1, No. 1.
- Fauzi, A, et al., (2018)). *Criminal Law Accountability In Giving Certificate Of Disease Issued By Doctor To Patient*. Journal Of Humanities And Social Science. Pp. 2279-0845.
- Ganapathy, K. N. (2001). *Telemedicine in India-the Apollo*, Chennai: Apollo Hospitals.
- Kalo, S. (2007). *Penegakan Hukum Yang Menjamin Kepastian Hukum dan Rasa Keadilan Masyarakat Suatu Sumbangan Pemikiran*, Medan.
- Koeswadji, H. H. (1995). *Perkembangan macam macam hukum pidana dalam rangka pembangunan hukum pidana*. Bandung: PT. Citra Aditya Bakti
- Maulana, A. A. (2015). *Pengertian Pelayanan Kesehatan Pasien Tujuan Bentuk Jenis Syarat Serta Tugas dan Fungsi Rumah Sakit Dalam Memberi Pelayanan*, Bandung: Citra Aditya Bakti.
- Wahjoepramono, J. (2012). *Konsekuensi Hukum Dalam Profesi Medis*, Bandung: Karya Putra Darwati.
- Komalawati,. (2002). *Peranan Informed Consent dalam Transaksi Terapeutik*, Jakarta: PT. Citra Buana.
- Kusumadewi, et al., (2009). *Informatika Kesehatan*, Yogyakarta: Graha Ilmu dan Rumah Produksi Informatika,
- Komalawati, V. (1989). *Hukum dan Etika Dalam Praktek Dokter*. Jakarta: Pustaka Sinar Harapan.
- Moeljatno,. (2015). *Asas-Asas Hukum Pidana*, Jakarta: Bina Aksara.
- Muchsin, A. (2013). *Perlindungan Hukum Terhadap Pasien Sebagai Konsumen Jasa*. Yogyakarta: Nuha Medika.
- Muhammad, A. (2010). *Hukum Perusahaan Indonesia*, Bandung, Citra Aditya Bakti.
- Nurdewata, M. F. (2010). *Penelitian Hukum Normatif dan Empiris*, Yogyakarta: Pustaka Pelajar.
- Prodjodikoro, W. (1997). *Memahami Dasar-Dasar Hukum Pidana Indonesia*. Jakarta: Pradnya Paramitha.
- Setiawan, R. (1999). *Pokok-pokok Hukum Perikatan*, Cetakan ke-6, Putra A Bardin, Bandung
- Raharjo, S. (2000). *Ilmu Hukum*, Bandung: PT Citra Aditya Bakti.
- Restiasari, A. et al., (2017). *Kepastian Hukum Apotek Rakyat dan Pekerjaan Kefarmasian*, Semarang.
- Sadi, M. (2015). *Etika Hukum Kesehatan, Teori dan Aplikasinya di Indonesia*, Jakarta: Prenadamedia Group.
- Sasongko, W. (2007). *Ketentuan-Ketentuan Pokok Hukum Perlindungan Konsumen*, Universitas Lampung, Bandar Lampung.
- Seran, M., Maria, A., & Setyowati, W. (2010). *Dilema Etika dan Hukum Dalam Pelayanan Medis*, Bandung: Mandar Maju.
- Soegijoko, S. (2010). *Perkembangan Terkini Telemedika dan E Health serta Prospek Aplikasinya di Indonesia*, Fakultas Teknologi Industri, Universitas Islam Indonesia (TI FTI UII), Yogyakarta.
- Triwulan, T., & Febrian, S. (2010). *Perlindungan hukum*, Cetakan Ke-7, Jakarta: Raja Grafindo Persada.
- Wang, Z. et al., (2008). *A Wireless Medical Information Query System Based on Unstructured Supplementary Service Data (USSD)*
- Zahir, R. (2018). *Hukum Perlindungan Pasien, konsep perlindungan hukum terhadap pasien dalam pemenuhan hak kesehatan oleh dokter dan rumah sakit*, Malang: Setara Press.
- Law No. 36 of 2009 on health
- Law No. 29 of 2014 on Medical Practice
- Law No. 11 of 2008 of Information and electronics transaction
- Regulation of the Minister of Health No. 20 of 2019